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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Geographic Partitioning and Spectrum )  
Disaggregation by Commercial Mobile )  
Radio Services Licensees )

WT Docket No. 96-148

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COMMENTS OF GTE SERVICE CORPORATION

GTE Service Corporation and its telephone  
and wireless companies

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## SUMMARY

GTE supports the Commission's proposal to permit liberal PCS geographic partitioning. GTE likewise supports the Commission's proposal to allow PCS spectrum disaggregation immediately. The Commission's proposals will increase the number of entities eligible to provide PCS throughout the country. As such, the proposals should lead to a more diverse set of PCS licensees and in turn lead to a more diverse set of services provided with the allocated spectrum.

With respect to geographic partitioning, GTE agrees with the Commission's proposals that any partitioning of broadband licenses be required to be along county lines, with the allowance that parties would be allowed to seek a waiver of that requirement where a service area does not naturally fall along county lines. GTE also supports the proposal that a partitionee be authorized to hold its license for the remainder of the partitioner's original ten-year license term and be afforded the same renewal expectancy as an MTA or BTA licensee. Finally, GTE supports the Commission's proposed options for construction requirements for partitioned licenses.

With respect to disaggregation, GTE fully supports the Commission's proposals both to eliminate the five-year build-out requirement for spectrum disaggregation and to allow broadband PCS licensees to disaggregate their spectrum to qualified entities immediately. GTE supports the Commission's proposal to allow disaggregation of broadband spectrum in blocks not smaller than 1 MHz and its proposals with respect to construction obligations for disaggregated spectrum. Finally, GTE agrees with the Commission's proposal that the disaggregatee be authorized to hold its license for the

disaggregated spectrum for the remainder of the disaggregator's ten-year license term, and that the disaggregatee be afforded the same renewal rights as the original licensee.

With respect to other matters, GTE agrees that the Commission should allow entities to acquire partitioned and disaggregated spectrum in the same market. GTE believes that current procedures and FCC forms are sufficient for handling the filing requirements created by partitioning and disaggregating. In order to keep the administrative burden on carriers as simple and streamlined as possible, the Commission should refrain from adopting any additional requirements. Last, GTE supports the Commission's proposal to treat a new entrant PCS licensee who gains its license through partitioning or disaggregation the same as any other subsequent PCS licensee for purposes of the microwave relocation cost-sharing plan.

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**COMMENTS OF GTE SERVICE CORPORATION**

GTE Service Corporation on behalf of its telephone and wireless subsidiaries ("GTE") hereby submits its comments in response to the Federal Communications Commission's ("FCC" or "Commission") *Notice of Proposed Rulemaking* in the above-captioned proceeding.<sup>1</sup> In the *Notice*, the Commission proposed to modify its broadband personal communications service ("PCS") rules to expand its geographic partitioning provisions to allow all PCS licensees to partition their license areas at any time to entities that meet minimum eligibility requirements. The Commission also proposes to permit spectrum disaggregation in the near term to entities that meet minimum eligibility requirements.

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<sup>1</sup> Geographic Partitioning and Spectrum Disaggregation by Commercial Mobile Radio Services Licensees, WT Docket No. 96-148, Implementation of Section 257 of the Communications Act -- Elimination of Market Entry Barriers, GN Docket No. 96-113, *Notice of Proposed Rulemaking* (released July 15, 1996) (hereinafter "*Notice*").

As discussed herein, GTE supports the Commission's proposal to permit liberal PCS geographic partitioning. GTE likewise supports the Commission's proposal to allow PCS spectrum disaggregation immediately.<sup>2</sup>

## **I. DISCUSSION**

### **A. Geographic Partitioning**

Currently, FCC rules allow rural telephone companies ("rural telcos") to acquire a partitioned broadband PCS license either by forming an auction bidding consortium comprised entirely of rural telcos and partitioning the license among the consortium members or through private negotiation either before or after an auction. Partitioning must conform to geopolitical boundaries (such as county lines), must include the wireline service area of the rural telco, and the partitioned area must be reasonably related to the rural telco's wireline service area.<sup>3</sup>

#### **1. In General**

The Commission proposes to relax its broadband PCS geographic partitioning rules for the A, B, D, and E blocks to allow any party that meets the eligibility requirements to be a broadband PCS licensee to acquire a license for a partitioned geographic service area.<sup>4</sup> The Commission reasons that broadening

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<sup>2</sup> GTE limits its comments to the Commission's partitioning and disaggregation proposals for the A, B, D and E blocks only.

<sup>3</sup> 47 C.F.R. § 24.714.

<sup>4</sup> In particular, partitionees must satisfy the Commission's spectrum aggregation rules. *Notice* at 11 (para. 16).

the partitioning rules will enable more entities, including small businesses and businesses owned by minorities and women, to participate in the provision of broadband PCS. It believes that its proposals will promote technical advancement, diversity of ownership, competition and will therefore expedite the provision of broadband PCS to areas that might not otherwise receive broadband PCS in the near term.<sup>5</sup>

GTE fully supports the Commission's proposal to broaden its PCS partitioning rules.<sup>6</sup> The Commission's proposals will increase the number of entities eligible to provide PCS throughout the country. As such, the proposals should lead to a more diverse set of PCS licensees and in turn lead to a more diverse set of services provided with the allocated spectrum.

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<sup>5</sup> Notice at 11 (paras. 14-15).

<sup>6</sup> GTE's support for the Commission's partitioning proposals is independent of and consistent with the proposed partitioning of GTE's Spokane block A broadband PCS license. GTE Macro Communications Corporation and 3 Rivers RCS, Inc. Application for Commission Consent to the Partial Assignment of License for Broadband Personal Communications Service Station KNLF283, Involving the Partitioning of the Great Falls, Billings, Bozeman, Helena, and Butte (except for Powell County) BTAs from GTE Macro Communications Corporation to 3 Rivers PCS, Inc., Market No. M042A - Spokane-Billings MTA, File No. 50002-CW-AL-96; GTE Macro Communications Corporation and Montana Wireless, Inc. Application for Commission Consent to the Partial Assignment of License for Broadband Personal Communications Service Station KNLF283, Involving the Partitioning of the Kalispell and Missoula BTAs and Powell County from the Butte BTA from GTE Macro Communications Corporation to Montana Wireless, Inc., Market No. M042A - Spokane-Billings MTA, File No. 50003-CW-AL-96.

## **2. Geographic Requirements**

The Commission proposes that any partitioning of broadband licenses be required to be along county lines, with the allowance that parties may seek a waiver of that requirement where a service area does not naturally fall along county lines.<sup>7</sup> GTE agrees with the Commission's proposals. Aside from ensuring that geopolitical boundaries, where practical, are followed, GTE strongly believes that no size limitation should exist for partitioned areas. Instead, GTE believes that market forces should dictate the size of the area to be partitioned. GTE believes, further, that the absence of geographic size limitations will give parties more flexibility to complete partitioning deals.

## **3. License Term**

The Commission proposes that a partitionee be authorized to hold its license for the remainder of the partitioner's original ten-year license term and be afforded the same renewal expectancy as an MTA or BTA licensee.<sup>8</sup> GTE supports these proposals.

## **4. Construction Requirements**

Finally, with respect to construction requirements, the Commission proposes that both the partitioner and partitionee should be subject to build-out requirements. The Commission's proposal offers a choice between two build-out options. Under the first option, the partitionee would be obligated to fulfill the

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<sup>7</sup> *Notice* at 12 (para. 18).

<sup>8</sup> *Id.* at 15-16 (paras. 28-30).



same build-out requirements as the original licensee. Under the second option, where the original licensee has already met its five-year construction requirements and certifies that it will meet its ten-year requirements for the entire license area, the partitionee would only be required to show that it is providing “substantial service.”<sup>9</sup>

GTE supports the Commission’s proposed construction requirements for partitioned licenses. GTE generally believes that partitionees should face the same construction requirements for the partitioned area that the original licensee must meet in its remaining license area. However, GTE does not disapprove of the Commission’s proposal to give partitionees a substantial service option where the original licensee has met the five year requirements and will meet the ten-year requirements. GTE believes that market forces provide additional incentive to partitionees to construct their networks. Partitionees, having invested substantial resources to obtain their licenses will likely build-out the network as soon as economically possible in order to recoup their investment.

## **B. Disaggregation**

### **1. In General**

Currently, FCC rules permit a broadband PCS licensee to disaggregate portions of its spectrum only if it has met its five-year construction requirement and only after January 1, 2000.<sup>10</sup> The Commission now proposes to allow

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<sup>9</sup> *Id.* at 17 (paras. 32-34).

<sup>10</sup> 47 C.F.R. § 24.229(d).

spectrum disaggregation to any qualified entities prior to January 1, 2000, and to eliminate the condition that the licensee satisfy the five-year build-out requirements before disaggregating. The Commission tentatively concludes that disaggregation will facilitate entry by new competitors and remove barriers to market entry by small businesses which may lack the resources to participate in the 30 MHz and 10 MHz spectrum auctions.<sup>11</sup>

GTE fully supports the Commission's proposals both to eliminate the five-year build-out requirement for spectrum disaggregation and to allow broadband PCS licensees to disaggregate their spectrum to qualified entities immediately. GTE agrees with the Commission's tentative conclusions that spectrum disaggregation will open up the PCS marketplace to entities that otherwise might not be able to acquire spectrum in order to provide wireless services. These entities promise to bring additional competition and innovative services to consumers.

## **2. Amount of Spectrum to Disaggregate**

The Commission proposes that PCS licensees be allowed to disaggregate frequencies in accordance with the pairings specified in FCC Rules.<sup>12</sup> The Commission concludes that some grouping of frequency pairs is preferable in order to ensure that the data base necessary to track authorizations does not become too cumbersome and complex, possibly delaying authorizations or

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<sup>11</sup> Notice at 18-19 (paras. 37-38).

<sup>12</sup> 47 C.F.R. § 24.229.

producing errors. Therefore, the Commission proposes to permit disaggregation for broadband PCS in blocks no smaller than a 1 MHz block of paired frequencies, thus requiring the disaggregating licensee to retain a minimum of 1 MHz. The Commission seeks comment on these proposals and, in particular, on whether it should require broadband PCS licensees to be licensed for more than 1 MHz to provide broadband services as originally envisioned by the Commission.<sup>13</sup>

GTE supports the Commission's proposal to allow disaggregation of broadband spectrum in blocks not smaller than 1 MHz. GTE does not believe the Commission should require larger blocks, because such a requirement is unnecessary in a competitive marketplace. GTE believes that the marketplace rather than regulation should ultimately determine the best use of the allotted spectrum. Requiring larger than 1 MHz blocks could foreclose entities from obtaining the spectrum necessary to provide services requiring smaller frequency blocks or to add small blocks of spectrum to augment the spectrum they already hold in a particular market. GTE also agrees that eliminating the current restrictions on spectrum disaggregation is consistent with the Commission's recent decision to allow commercial mobile services ("CMRS") providers to aggregate up to 45 MHz of spectrum. Disaggregation will allow CMRS providers greater flexibility to acquire spectrum to meet their service needs up to the cap limits.

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<sup>13</sup> Notice at 20 (paras. 42-43).

### 3. Construction Requirements

The Commission, concerned about spectrum warehousing, proposes two construction options for entities not already possessing a broadband PCS license in the same geographic service area that obtain disaggregated spectrum.<sup>14</sup> Like the partitioning construction proposal, under the first option, the entity acquiring the disaggregated spectrum would be obligated to satisfy the same construction requirements as the original licensee. Under the second option, where the original licensee has met its five-year build-out requirement and certifies that it will also meet its ten-year requirement, the disaggregatee must only satisfy the applicable five-year build-out requirement for the license area by end of the original ten-year license term. The Commission also proposes to require that both the original licensee and the disaggregatee certify to the Commission that the time remaining before the ten-year period runs is sufficient for both entities to meet the construction requirements. Should either licensee fail to meet the construction requirements, the Commission proposes that the license of the entity failing to meet the requirement revert automatically back to the Commission.<sup>15</sup>

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<sup>14</sup> Entities already holding a broadband PCS license that obtain disaggregated spectrum would not face any additional construction requirements, because such licensees are already subject to coverage requirements under their existing licenses. *Notice* at 24 (para. 56).

<sup>15</sup> *Id.* at 23-24 (paras. 51-55).

Consistent with its support for the Commission's build-out proposals for spectrum partitioning, GTE supports the Commission's proposals with respect to construction obligations for disaggregated spectrum. GTE agrees that the proposed measures will ensure that disaggregates do not warehouse the acquired spectrum and that the spectrum will be used in a manner that will benefit the public. In particular, GTE supports the Commission's tentative decision not to link the construction obligations of the disaggregator and disaggregatee. This proposal recognizes that entities disaggregating spectrum have no control over the actions of the acquiring entity and properly places the sole responsibility for meeting the build-out requirements on each licensee

#### **4. License Term**

The FCC proposes that the disaggregatee would be authorized to hold its license for the disaggregated spectrum for the remainder of the disaggregator's ten-year license term. The Commission also proposes the disaggregatee would be afforded the same renewal rights as the original licensee. GTE agrees with both of these proposals.

#### **C. Other Matters**

##### **1. Combination of Partitioning and Disaggregation**

Recognizing that some entities may use both partitioning and disaggregation to enter or increase their presence in a market, the Commission proposes that its rules should allow entities to do both. The Commission

proposes that the rules for partitioning would apply in the event there is a conflict in the application of its rules.<sup>16</sup>

Consistent with its views on liberalized partitioning and disaggregation, GTE agrees that the Commission should allow entities to acquire partitioned and disaggregated spectrum in the same market. Allowing both will give entities added flexibility in meeting wireless spectrum needs in each market.

## **2. Licensing**

The Commission proposes to follow existing assignment procedures for broadband PCS licenses in reviewing requests for partitioning, disaggregation or both. The Commission seeks comment on whether any additional procedures should be required.<sup>17</sup> GTE agrees that current procedures and FCC forms are sufficient for handling the filing requirements created by partitioning and disaggregating. In order to keep the administrative burden on carriers as simple and streamlined as possible, the Commission should refrain from adopting any additional requirements.

## **3. Microwave Relocation**

Referring to its recently adopted rules regarding sharing of costs for relocating fixed microwave facilities, the Commission proposes to treat a new entrant PCS licensee who gains its license through partitioning or disaggregation the same as any other subsequent PCS licensee for purposes of the cost-

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<sup>16</sup> *Id.* at 25 (paras. 58-59).

<sup>17</sup> *Id.* at 25-26 (paras. 60-61).

sharing plan, unless the reimbursement obligation has already been paid by the original licensee.<sup>18</sup> GTE supports this proposal.

## CONCLUSION

As discussed above, GTE supports the Commission's proposal to permit liberal geographic partitioning of broadband PCS licenses. GTE likewise supports the Commission's proposal to allow broadband PCS spectrum disaggregation immediately. GTE believes that these proposals will enable the competitive marketplace to function more efficiently by eliminating unnecessary regulation of PCS license partial assignments. GTE also agrees with the Commission that liberalized partitioning and disaggregation rules will enable more entities, including small businesses and businesses owned by minorities and women to participate in the provision of PCS.

Respectfully submitted,

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<sup>18</sup> *Id.* at 27 (para. 64).